



Comptroller General
of the United States
Washington, D.C. 20548

15344/

334251

Decision

Matter of: Navistar Marine Instrument Corporation

File: B-259241; B-259242; B-259243;
B-259244; B-259245

Date: January 25, 1995

DECISION

Navistar Marine Instrument Corporation protests its failure to be solicited under various alleged solicitations issued by the Department of the Navy.¹ In its initial protests, Navistar argued that it was on the bidders' mailing list and that the agency negligently failed to solicit the firm.

The agency filed an agency report with our Office and provided Navistar with a copy of the report. Except for one "solicitation," Navistar failed to file comments with our Office on the agency report concerning four of its five protests.

We dismiss the protests because the protester failed to file its comments on the agency report within 10 working days after the report due date, as required by our Bid Protest Regulations, 4 C.F.R. § 21.3(j) (1994).

The filing deadlines in our Regulations are prescribed under the authority of the Competition in Contracting Act of 1984; their purpose is to enable us to comply with the statute's mandate that we resolve protests expeditiously. See 31 U.S.C. § 3554(a) (1988); Green Management Corp.--Recon., B-233598.2, Feb. 27, 1989, 89-1 CPD ¶ 208. To avoid delay in the resolution of protests, our Regulations provide that a protester's failure to file comments within 10 working days, or to file a request that the protest be decided on the existing record, or to request an extension of the time for submitting comments, will result in dismissal of the protest. 4 C.F.R. § 21.3(j); Prio-Leau Culinary Servs., Inc.--Recon., B-236373.6, Jan. 23, 1990, 90-1 CPD ¶ 90. But for this provision, a protester could idly await receipt of the report for an indefinite time, to the detriment of the

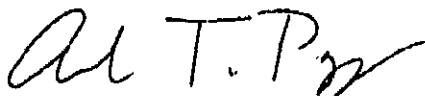
¹The alleged solicitations, some of which are actually purchase requests or awarded contracts, are Nos. N00104-94-X-C672; N00104-94-C-T026; N00104-94-P-WD87; N00104-93-X-T138; and N00104-93-X-P853.

protest system and our ability to resolve the protest expeditiously. Accordingly, the four protests are dismissed.

Concerning "solicitation" No. N00104-94-C-T026, Navistar filed comments in support of its contention that it should have been solicited for this requirement. The record shows that notice of award to another firm was published by the Navy on April 29, 1994 in the Commerce Business Daily (CBD). Navistar filed its protest on November 4 and states that it was unaware of the previous publication in the CBD by the Navy.

We have held that publication in the CBD constitutes constructive notice of a procurement action. See Metrox Inc., B-235618, Aug. 21, 1989, 89-2 CPD 161. Therefore, Navistar, by virtue of the Navy's publication of the award in the CBD, is charged with knowledge of the award. Id. Our Bid Protest Regulations require that a protest be filed not later than 10 working days after the basis of protest is known or should have been known, whichever is earlier. 4 C.F.R. § 21.2(a)(2). Further, the protester must have diligently pursued the information forming the basis for the protest; if the protester failed to do so within a reasonable time, we will dismiss the ultimately filed protest as untimely. See Dixie Air Parts Supply, Inc., B-230088, Apr. 17, 1988, 88-1 CPD ¶ 355. Since Navistar here ultimately filed its protest with our Office more than six months after the publication of the award in the CBD, with no intervening action on its part, we dismiss this protest as untimely.

The protests are dismissed.



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